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22428 7590 06/25/2009 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
MULLS, JEFFREY C				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Applicants Kuraray , ROMP CHEMIE Maeda and Hellermann and other exhibits submitted with the present response have not been timely filed and have therefore not been considered. Applicants arguments which rely on the exhibits therefore do not overcome the rejection under 35 USC 112.

Applicants argue that Morizono "does not teach the high vinyl content isoprene of the presently claimed invention". However the term "high" appears nowhere in the instant claims nor is any numerical value of vinyl unit recited by the claims. Morizono requires the presence of spp. Therefore there one selection needed to arrive at applicants invention based on Morizono. No Shakespearean Sonnet is consists of a single word from an English Dictionary. The selection of Styrene butadiene block copolymer from Morizono is understood to entail combination with spp as this is required by Morizono and metes all of the limitations of the claims as arranged by the claims.

As set out in the FINAL rejection, Jiang discloses a bag at paragraph 512. With regard to applicants argument that the instant claims do not have adhesive properties, the claims define the invention and no such limitation appears in the claims. In any case, styrenic block copolymers are common adhesive components and .it appears vey that addition of spp would destroy adhesive properties. To arrive at applicants invention those of ordinary skill would only have to select styrene butadiene/isoprene styrene block copolymer at paragraph 160 (at this point is this were the only selection needed the reference would actually anticipate the claims) and then select spp from paragraph 297 a preferred material. There is thus extraordinarily little selection needed from the reference. There are numerous instances where selection from various disclosures and

combining them has been held to be a proper basis for obviousness (see Ex Parte A referred to by the examiner in the FINAL Office action). The examiner's position regarding Jiang is based on the fact that Jiang discloses a composition requiring an olefin polymer to which Jiang discloses applicants block copolymer may be added and that Jiang discloses that the olefin polymer is preferably spp. The motivation to arrive at applicants compositions relies entirely on the disclosure of the reference. It is not possible to base a rejection under 35 USC 103 based on solely on the fact that selection from a single list is needed. Such a reference would actually anticipate the claims. Selection from two lists (where the sole issue is selection of claim features) is the smallest number of list conceivable for basing a rejection under 35 USC 103.

With regard to Ajbani, Applicants are requested to be more clear about what per se rule they believe the examiner is relying on. It is clear that no reliance on per se rules is proper nor has the examiner cited any per se rules in the above rejections. The motivation to arrive at applicants compositions relies entirely on the disclosure of the reference not any per se rules. The examiner's statement that "there are no examples in which all of applicants features are present simultaneously" certainly addresses the differences between the prior art and the reference unless applicants believe it is not necessary that such a disclosure be resent. Applicants features are also present in Ajbani as was pointed out by the examiner. Ajabani requires a material "a" as well as "c"

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, which as the examiner previously pointed out includes applicants spp and block copolymer respectively. There is therefore ample reason to modify the reference disclosure to arrive at applicants invention.

JCM

6-22-09

/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1796